



PUBLIC NOTICE

04-344

Federal Communications Commission
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Washington, D.C. 20554

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Released: November 7, 2003

DA 03-3585

**WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT ON
MARITEL, INC. PETITION FOR DECLARATORY RULING AND NATIONAL
TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION PETITION FOR
RULEMAKING REGARDING THE USE OF MARITIME VHF CHANNELS 87B AND 88B**

Comment Date: December 1, 2003

Reply Date: December 11, 2003

On October 15, 2003, MariTEL, Inc. (Maritel) filed an emergency petition for declaratory ruling regarding the use of VHF maritime Channels 87B (161.975 MHz) and 88B (162.025 MHz).¹ Specifically, Maritel seeks a ruling that shipborne Automatic Identification System (AIS)² transmitters may not operate on channels 87B and 88B or any other channel designated for use by VHF public coast (VPC) shore stations. Maritel requests a ruling that AIS use of these channels by ship stations would violate Section 80.371(c) of the Commission's Rules, 47 C.F.R. § 80.371(c). It states this ruling is necessary to remove any uncertainty regarding the use of those channels caused by the previous release of two public notices regarding the use of the channels and the certification of AIS transceivers. It states that shipborne transmission of AIS messages on these channels will cause destructive interference to Maritel's and incumbent licensees' operations.

On October 24, 2003, the National Telecommunications and Information Administration (NTIA), an executive branch agency within the Department of Commerce, filed a petition for rulemaking urging the Commission to work with the NTIA to allocate Channels 87B and 88B exclusively for AIS use by both Federal Government and non-Federal Government users on a shared basis nationwide.³ Specifically, NTIA proposes that the Commission delete note US223 to the Table of Allocations, 47 C.F.R. § 2.106 n.US223, and replace it with a new footnote allocating Channels 87B and 88B exclusively for AIS use; and amend Section 80.371(c)(3) of its Rules, 47 C.F.R. § 80.371(c)(3), regarding what channels VPC licensees must make available for AIS use. NTIA argues that these channels are necessary in the United States for AIS operations essential for maritime safety and homeland security.

¹ Emergency Petition for Declaratory Ruling (filed Oct. 15, 2003). Maritel filed a supplement to the petition on October 27, 2003. In addition, Maritel previously filed a petition for declaratory ruling regarding whether Channel 88 is available for Federal Government use above Line A. See Wireless Telecommunications Bureau Seeks Comment on Maritel, Inc. Petition for Declaratory Ruling Regarding the Use of Maritime VHF Channel 88, *Public Notice*, 18 FCC Rcd 14250 (WTB PSPWD 2003). That request remains pending.

² The AIS is a VHF ship-ship/ship-shore transponder system using self-organizing time division multiple access techniques to assist ships in navigation and collision avoidance, especially in congested waters. AIS is intended to provide a ship's identity, position, course and speed, among other things.

³ Letter dated Oct. 24, 2003 from Fredrick R. Wentland, Associate Administrator, Office of Spectrum Management, NTIA to John B. Muleta, Chief, Wireless Telecommunications Bureau, RM-10821.

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By way of background, the International Maritime Organization Maritime Safety Committee approved carriage requirements for shipborne AIS equipment to be phased in beginning July 1, 2002. Channels 87B and 88B are allocated internationally for AIS use pursuant to the World Radio Conference of 1997 (WRC-97), but Administrations may use other channels if Channels 87B or 88B are not available. In 1998, the Commission declined to designate specific frequencies for AIS use in the United States. Instead, it required VPC geographic licensees in maritime areas to negotiate with the U.S. Coast Guard (Coast Guard) regarding what channels to select for AIS use.⁴ The Commission also provided that it would revisit the issue and select the channels if good faith negotiations did not yield an agreement. Maritel was the high bidder for each VPC geographic license in maritime areas, and the licenses were awarded in 1999. In 2001, the Coast Guard and Maritel agreed to designate frequencies 157.375 and 161.975 MHz for AIS use. In 2002, NTIA approved the use of Channel 88B for AIS. Consequently, the Commission's Wireless Telecommunications Bureau and Office of Engineering and Technology released public notices announcing that ship station AIS operations on Channels 87 and 88 would be deemed to be authorized under existing ship licenses, and announcing procedures for certification of AIS equipment.⁵ In 2003, however, Maritel terminated the agreement with the Coast Guard.

Interested parties may file comments on the Maritel petition and/or the NTIA petition on or before December 1, 2003. Parties interested in submitting reply comments must do so on or before December 11, 2003. All comments should reference the subject request including the DA number of this Public Notice and the RM number of the NTIA petition (RM-10821), and should be filed with the Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, S.W., TW-325, Washington, D.C. 20554.⁶ A copy of each filing also should be sent to 1) Qualex International, Inc., Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554; 2) Maria Ringold, Federal Communications Commission, Consumer and Governmental Affairs Bureau, Reference Information Center (RIC), 445 Twelfth Street, S.W., Room CY-B529, Washington, D.C. 20554; 3) Tim Maguire, Federal Communications Commission, Wireless Telecommunications Bureau, Public Safety and Private Wireless Division, 445 Twelfth Street, S.W., Room 4-C342, Washington, D.C. 20554; and 4) Jeffrey Tobias, Federal Communications Commission, Wireless Telecommunications Bureau, Public Safety and Private Wireless Division, 445 Twelfth Street, S.W., Room 2-C828, Washington, D.C. 20554.

The Maritel and NTIA petitions, and responsive comments and reply comments, will be available for inspection and duplication during regular business hours in the Reference Information Center (RIC) of the Consumer Information Bureau (CIB), Federal Communications Commission, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. Copies may also be obtained from the Commission's duplicating contractor, Qualex International, Inc., Portals II, 445 12th Street, S.W., Room CY-B402,

⁴ Amendment of the Commission's Rules Concerning Maritime Communications, *Third Report and Order and Memorandum Opinion and Order*, PR Docket No. 92-257, 13 FCC Rcd 19853, 19875-76 ¶¶ 48-49 (1998).

⁵ Wireless Telecommunications Bureau Announces Use of An Additional Frequency for the United States Coast Guard's Ports and Waterways Safety System, *Public Notice*, 17 FCC Rcd 10960 (WTB PSPWD 2002); Applications for Equipment Authorization of Universal Shipborne Automatic Identification Systems To Be Coordinated with the U.S. Coast Guard to Ensure Homeland Security, *Public Notice*, 17 FCC Rcd 11983 (OET 2002).

⁶ The address for FCC locations should be used only for documents filed by United States Postal Service first-class mail, Express Mail, and Priority Mail. Hand-delivered or messenger-delivered documents for the Commission's Secretary are accepted only at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. Other messenger-delivered documents, including documents sent by overnight mail (other than United States Postal Service Express Mail and Priority Mail) should be addressed for delivery to 9300 East Hampton Drive, Capitol Heights, MD 20743. See FCC Announces a New Filing Location for Paper Documents and a New Fax Number for General Correspondence, *Public Notice*, 16 FCC Rcd 22165 (2001).

Washington, D.C. 20554, (202) 863-2893, facsimile (202) 863-2898, or via e-mail qualexint@aol.com. For further information regarding the public reference file for this request, contact Maria Ringold, Chief, Wireless Branch, RIC, (202) 418-1355.

Because of the policy implications and potential impact of this proceeding on persons not parties to this request, we believe it would be in the public interest to treat this matter as a permit-but-disclose proceeding under the *ex parte* rules, *see* Sections 1.1200(a) and 1.1206 of the Commission's Rules, 47 C.F.R. §§ 1.1200(a), 1.1206, rather than a restricted proceeding under Section 1.1208 of the Commission's Rules, 47 C.F.R. § 1.1208. Therefore, any *ex parte* presentations that are made with respect to the issues involved in the subject request, subsequent to the release of this Public Notice, will be allowed but must be disclosed in accordance with the requirements of Section 1.1206(b) of the Commission's Rules, 47 C.F.R. § 1.1206(b).

For further information, contact Tim Maguire or Jeffrey Tobias of the Public Safety and Private Wireless Division of the Wireless Telecommunications Bureau at (202) 418-0680, TTY (202) 418-7233 or via email to Tim.Maguire@fcc.gov or Jeff.Tobias@fcc.gov.

By the Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau.

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